

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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AUG 31 1998

In the Matter of )

North American Numbering Council )  
Recommendation Concerning Local )  
Number Portability Administration )  
Wireline and Wireless Integration )

CC Docket No. 95-116  
NSD File No. L-98-94

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## REPLY

BellSouth Corporation, on behalf of itself and its affiliated companies, by counsel, files its reply to the preliminary comments filed in this matter on August 10, 1998.

**I. THE COMMISSION MUST SUSPEND THE CURRENT WNP IMPLEMENTATION DEADLINE**

The record is clear that the Commission must take immediate action to suspend the June 30, 1999 wireless number portability (WNP) implementation deadline.<sup>1</sup> WNP standards are not yet finalized: once finalized, implementation will take a minimum of eighteen to twenty-four months to complete, and subsequent testing is dependent upon the availability of equipment.<sup>2</sup> This whole process, as CTIA notes, "is complicated by the differences between wireless serving areas and wireline serving areas and different call 'rating' capabilities."<sup>3</sup> The June 30, 1999 deadline is now only ten months away.<sup>4</sup>

As Bell Atlantic Mobile shows, the NANC Report is a "catalog of still to be resolved matters" which "echo the record developed" in the pending petitions for waiver and for

<sup>1</sup> Bell Atlantic Mobile, Inc. (BAM) Comments at 2. BellSouth requests that the Commission take this action immediately in light of the upcoming September 30, 1998 deadline for carrier deployment requests. 47 C.F.R. § 52.31(a)(1)(ii). Absent prompt Commission action, there will be much confusion in the industry as the September 30 deadline approaches.

<sup>2</sup> CTIA Comments at 5-6.

<sup>3</sup> *Id.* at 6.

<sup>4</sup> See USCC Comments at 1 (noting that deadline is 11 months away).

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forbearance filed by the CTIA.<sup>5</sup> The record in those proceedings demonstrated that, assuming NANC had delivered a complete report, the June 30, 1999 deadline is impossible to achieve.<sup>6</sup> Given the lack of resolution of fundamental issues in the current "interim" report, "the infeasibility of the June 1999 deadline is even clearer."<sup>7</sup> Thus, as the Rural Telecommunications Group (RTG) states, "based on the issues that remain to be resolved and the short time frame involved, it appears that CMRS providers will be unable to meet the Commission's mandate."<sup>8</sup>

The Commission should give very little weight to the comments of those parties opposed to delaying the current WNP deadline. The trade organization representing non-facilities based CMRS resellers acknowledges that the NANC Report "does not provide sufficient assurance that CMRS number portability will be available in the reasonably near future,"<sup>9</sup> but goes on to advocate "rapid implementation" of WNP.<sup>10</sup> As non-facilities based resellers, TRA's members neither have to make the investment, nor expend the labor, to undertake massive hardware and software changes within their networks. It is easy for resellers to engage in such advocacy, the technical work effort required of them is minimal.

Similarly, MCI acknowledges that the NANC Report "fails to resolve any major issues and does not significantly advance integration of wireline and wireless carriers for local number portability ('LNP') purposes."<sup>11</sup> At the same time, however, MCI urges the Commission to "make clear to the wireless industry that the Commission is committed to the June 1999 deadline

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<sup>5</sup> BAM Comments at 9, 10 and *passim*.

<sup>6</sup> *Id.* at 10-11.

<sup>7</sup> *Id.* at 11.

<sup>8</sup> RTG Comments at 7.

<sup>9</sup> TRA Comments at 4.

<sup>10</sup> *Id.* at 7-13.

<sup>11</sup> MCI Comments at 1.

for wireless-wireless number portability.”<sup>12</sup> MCI’s comments make no mention of the key unresolved issue in WNP implementation, the separation of the Mobile Identification Number (MIN) necessary to support nationwide roaming by MIN-based wireless carriers.<sup>13</sup> In light of this omission, and in the face of MCI’s acknowledgment of the deficiencies in the NANC Report, MCI’s suggestion that the Commission retain the current deadline when it is undisputed that major technical problems need to be resolved is incredible.<sup>14</sup>

## **II. THE COMMISSION MUST ENCOURAGE INDUSTRY DEVELOPMENT OF CONSENSUS TECHNICAL STANDARDS FOR MIN/MDN SEPARATION**

Comments addressing the NANC Report’s treatment of the roaming issue make clear that the Commission must take immediate action to suspend the WNP implementation date in order to allow sufficient time to develop standards, implement changes and test them.<sup>15</sup> In the *First Order on Reconsideration*, the Commission stated that “by June 30, 1999, CMRS providers must (1) offer service provider portability in the 100 largest MSAs, and (2) be able to support nationwide roaming.”<sup>16</sup> The July 7, 1998 CTIA Report on Wireless Number Portability (CTIA Report) concludes that due to the FCC’s mandate to support nation

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<sup>12</sup> *Id.* at 13.

<sup>13</sup> *See, e.g.* RTG Comments at 1.

<sup>14</sup> MCI’s credibility is thoroughly undermined by its irresponsible statement that the Commission should make clear that “technical challenges will not serve as grounds to delay wireless number portability.” MCI Comments at 7. The Commission’s own rules expressly recognize the validity of such challenges, indeed, the Commission has delegated express authority to the Common Carrier Bureau to waive any number portability implementation deadline based on a carrier’s identification of “specific technical problems.” *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7285 (1997) at ¶ 82.

<sup>15</sup> *See, e.g.*, BAM Comments at 2. BellSouth estimates that carriers will need until June 1999. Letter from Ben G. Almond, Vice President - Federal Regulatory, BellSouth D.C., Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 95-116 *Ex Parte* (June 4, 1998), attachment p.5.

<sup>16</sup> AT&T Comments at 8.

wide roaming and the need to separate the Mobile Identification Number (MIN) and Mobile Directory Number (MDN), wireless providers involved in roaming outside the top 100 MSAs must still enhance their network to serve subscribers with MINS that are not equal to MDNs.<sup>17</sup> Similarly, the NANC Report concludes that nationwide roaming cannot be supported unless MIN/MDS separation is implemented by all MIN based wireless systems (not just those in the 100 MSAs) prior to the start of WNP.<sup>18</sup> The NANC Report contains no final specification, nor does it provide the basis for final industry-developed standards, for MIN/MDN separation, nor does it address any alternatives to MIN/MDN separation in order to implement WNP in the top 100 MSAs without jeopardizing roaming capabilities.<sup>19</sup>

The NANC Report, of course, requests that the Commission explain what it meant when it used the term "nationwide roaming."<sup>20</sup> Commenting parties urge different interpretations. AT&T contends that "automatic" roaming "has become an integral part of wireless service" and that it is "the only easy and cost effective method to provide" nationwide wireless service.<sup>21</sup>

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<sup>17</sup> CTIA Report on Wireless Number Portability, Version 2.0, (July 7, 1998) at pp. 26, 63-65 (CTIA Report). Currently the MIN and MDN are the same ten-digit value. When end users port from a wireless carrier, they port their MDN (telephone number) to the new carrier. The MIN remains with the old carrier and will be reassigned, as a MIN, to a subsequent customer. Thus, a single ten-digit value has the potential to be a MIN for one customer in a given network and an MDN for a second customer in another network. The MIN and the MDN may continue to be the same value for end users that have not ported.

<sup>18</sup> NANC Report at § 7.2.2

<sup>19</sup> RTG Comments at 6; BellSouth Comments at 6-8.

<sup>20</sup> NANC Report at § 7.2.2. Although the legal requirement is to support "nationwide" roaming, wireless customers throughout North America (Canada, the United States, and Mexico) today enjoy automatic roaming. Thus, while nationwide roaming may be preserved as a result of the Commission's current WNP requirements, transnational automatic roaming in North America may be threatened.

<sup>21</sup> AT&T Comments at 9. Notwithstanding AT&T's contentions, and the Commission's repeated calls for comments in a separate proceeding (CC Docket 94-54) to consider adopting rules requiring automatic roaming, neither the record in that proceeding nor AT&T's comments herein present a basis for the Commission to adopt automatic roaming rules, *per se*.

Accordingly, AT&T urges the Commission to clarify its order “that carriers support automatic roaming by specifying that all MIN-based CMRS carriers must perform the upgrades to their networks necessary to provide automatic roaming in their service areas by the wireless LNP effective date regardless of the market in which they are located.”<sup>22</sup> SBC, on the other hand, contends that “the only clarification the Commission can rationally make is that the phrase ‘ability to support nationwide roaming’ was meant to require carriers to support ‘manual roaming’ for ported customers—the same requirement as for any customer today.”<sup>23</sup>

While AT&T’s position may reflect current consumer preferences in the larger markets, the cost impacts on wireless carriers operating outside of the 100 MSAs who are not required to offer WNP, and who may have no consumer demand for WNP, will be enormous. Such an approach appears to be in direct conflict with Commission’s number portability performance criteria that WNP have “no significant impact outside the areas where number portability is deployed.”<sup>24</sup> Moreover, simply ordering such carriers to “perform the upgrades necessary in their networks” in order to allow wireless customers to continue to receive the benefits of automatic roaming is much easier said than done. Until the industry develops technical standards for separating the MIN from the MDN or for carrier testing, wireless carriers outside the 100 MSAs will not have the guidance necessary to perform the necessary upgrades.

SBC states that its proposal would “allow carriers to make the most efficient decision regarding roaming based on the individual characteristics of the local markets and their customer’s needs.”<sup>25</sup> BellSouth believes that roaming should be left to market forces. Where

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<sup>22</sup> *Id.* (emphasis in original).

<sup>23</sup> SBC Comments at 9.

<sup>24</sup> 47 C.F.R. § 52.23(a)(8), applicable to CMRS providers through 47 C.F.R. § 52.31(a).

<sup>25</sup> SBC Comments at 10.

automatic roaming arrangements are already in place, however, wireless consumers should not be required to "revert" to manual roaming. Manual roaming is cumbersome, vulnerable to fraud and would prove highly confining to wireless customers accustomed to automatic roaming. As a result, if implemented in a way in which existing automatic roaming agreements would be impaired, manual roaming threatens to result in an unreasonable degradation of service quality, contrary to the Commission's number portability performance criteria.<sup>26</sup>

Finally, there are overwhelming technical disadvantages to TRA's suggestion to adopt an LRN approach for WNP rather than the MIN/MDN approach developed by the industry.<sup>27</sup> The TRA approach requires the original (donor) network to remain involved in call processing after a customer ports to another (recipient) network, a highly inefficient call handling protocol that introduces unnecessary opportunities for error.<sup>28</sup> Further, the current wireless industry standard that supports inter-system wireless transactions, TIA IS-41, is not capable of supporting this type of call processing.

In sum, neither the NANC Report, nor any of the commenting parties, have offered a definitive solution to the roaming problem. Moreover, while the report makes clear that WNP will have significant impacts on MIN-based carriers operating outside of the 100 largest MSAs, it is not clear that those carriers are fully aware of, understand or appreciate significance of the Commission's current WNP requirements on their networks, operating systems and businesses. In any event, it is clear that there not enough time to develop implementable standards by the

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<sup>26</sup> 47 C.F.R. § 52.23(4).

<sup>27</sup> Although TRA chose not to participate in any of the industry meetings which led to the adoption of the MIN/MDN report in the CTIA Report, TRA's proposed methodology was thoroughly considered and rejected within the industry over two years ago.

June 30, 1999 WNP implementation deadline. The Commission should therefore suspend the implementation deadline.<sup>29</sup>

### III. THE COMMISSION MUST ADDRESS THE EFFECT OF THE DIFFERENCE BETWEEN WIRELINE AND WIRELESS SERVICE AREAS

The fundamental assumption of the local number portability architecture adopted by the Commission in its *Second Report and Order* is that number portability is technically limited to [the] rate center/rate district boundaries of the incumbent LEC due to rating/routing concerns.<sup>30</sup>

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<sup>28</sup> This is due to the fact that the HLR of the donor network would be the only network capable of determining whether or not a called subscriber had ported and, if so, where the call should be routed.

<sup>29</sup> CTIA offers other rationale against imposing a WNP requirement. In supporting the WWITF's recommendation to defer the introduction of intermodal number portability until "a clear and real competitive need exists," CTIA argues categorically that wireline/wireless service competition does not exist now, and is not expected to exist in the future. CTIA Comments at 3-4. Elsewhere, CTIA states generally that wireless number portability is not a prerequisite to wireless competition. *Id.* at n.5. The data, however, show that wireless/wireline competition can exist and that, like wireless/wireless competition, number portability is not a prerequisite to intermodal service substitution. BellSouth has documented significant wireless/wireline service substitution in the context of PCS service and BellSouth's local exchange operations in Louisiana. *Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, Application by BellSouth (filed July 9, 1998) at 12-15. This service substitution took place in the absence of either a statutory or regulatory mandate for PCS number portability and with Congress's express recognition that PCS competition could satisfy a Bell operating company's section 271 checklist requirements.

<sup>30</sup> SBC Comments at 3. *See also* United States Cellular Comments at 3, n.3. Some comments in this proceeding imply that rate centers are a recent nefarious invention of today's LECs. Such comments are unhelpful and do nothing to advance the dialogue of competition. In fact, rate centers developed as telephone companies expanded their customers' service lines in the first half of this century. Pennsylvania Public Utility Commission, *Petition of NPA Relief Coordinator Re: 412 Area Code Relief Plan*, Order. Docket No. P-00961027 (April 9, 1998) at 4. As the California Public Utilities Commission has observed, many of the older exchange rate centers were established at the location of the post office or of another federal building within the given community or city and not at the actual location of the telephone central office. *API Alarm Systems v. GTE California*, 36 CPUC 2d 369 (1990) at n.6. This "ancient custom appears to have its origin when, prior to the existence of the Federal Communications Commission (FCC) (1934) the Postmaster General had certain authority to fix rates and interconnection on a nondiscriminatory basis." *Id.* Therefore, while AT&T's statement that "the concept of rate centers was devised by incumbent LECs" may be legally accurate, AT&T Comments at 4, in reality the "concept" was devised by the predecessors to today's incumbent LECs, specifically AT&T, prior to the establishment of either the FCC or today's Bell operating companies.

There was a lack of consensus within the WWITF task group over whether this technical limitation in turn creates competitive disparity with respect to intermodal porting. SBC states the problem succinctly: whether technical restrictions on the ability to port numbers imposed by rate center boundaries constitute such a material disparity "is likely to depend on whether you are a wireline provider or wireless provider and perhaps ultimately on the level of competition that develops between wireless and wireline providers."<sup>31</sup> Indeed, the comments filed in this proceeding bear out SBC's observation. MCI, a wireline carrier, argues that the difference in porting capabilities between wireless and wireline service providers creates a significant disadvantage to wireline service providers.<sup>32</sup> AT&T, one of the country's largest wireless carriers in terms of customer subscribership, argues that the Commission's adoption of an intermodal porting requirement in light of the well-known difference between wireline and wireless service areas demonstrates that there is no discrimination against wireline carriers.<sup>33</sup>

While some commenters continue to press their particular views upon the Commission, there is consensus that the Commission needs to provide the industry with guidance as to whether the intermodal porting disparities favor one industry segment over the other, or are otherwise inconsistent with the Commission's requirements for competitive neutrality.<sup>34</sup> Moreover, the difference in service areas exacerbates the problems posed by "technology neutral" number pooling, adding an additional layer of technical challenge. Disparate service

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<sup>31</sup> SBC Comments at 4.

<sup>32</sup> MCI Comments at 11.

<sup>33</sup> AT&T Comments at 3-4.

<sup>34</sup> "In general, we believe that a successful administration of the NANP will not unduly favor or disadvantage any particular industry segment or group of consumers. Similarly, we believe that the administration of the plan should not unduly favor one technology over another." *Ameritech Declaratory Ruling and Order*, 10 FCC Rcd 4596 (1995) at ¶ 18; accord ...Continued



areas of necessity create disparate "pools."<sup>35</sup> It is imperative, therefore, that the Commission address the specific issues raised by an LNP architecture based on incumbent LEC rate centers and disparate wireline/wireless service areas, both as framed by NANC and the WWITF Report, and in the context of its pending proceeding regarding clarification of the term "technology neutral."<sup>36</sup>

#### IV. SHARED DATABASE COSTS ARE SHARED DATABASE COSTS

MCI states that it supports the NANC feasibility study into changing the current LSR process with a modification to the NPAC SMS.<sup>37</sup> MCI goes on to state that in the event such changes are made, the wireless industry alone should bear the associated costs.<sup>38</sup> If the Commission were to properly adopt NANC a recommendation to change the NPAC SMS, such changes to the database would clearly be shared costs, namely "costs incurred by the industry as a whole, such as those incurred by the third-party administrator to build, operate, and maintain

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*Administration of the North American Numbering Plan*, Report and Order, 11 FCC Rcd 2588 (1995) at ¶ 18.

<sup>35</sup> The Commission should reject MCI's attempt to use number pooling to leverage an unreasonable WNP implementation requirement, and to introduce collateral issues in this proceeding. Although MCI's comments are drafted as if number pooling has been completely defined, and as if its nationwide implementation has already been determined to be in the public interest, NANC, as well as other industry forums, are currently at work on critical issues surrounding the scope and extent of number pooling. Number pooling is a meritorious concept that fully deserves the current, intense study of the industry. It is, however far from being the foregone conclusion implied by MCI. Similarly, the Commission need not open a Notice of Inquiry or other proceeding concerning the issues of rate centers or rate center consolidation. States across the country are examining rate center consolidation, and incumbent LECs across the country are examining their current rate center structures. This work should be allowed to proceed.

<sup>36</sup> *Common Carrier Bureau Seeks Comment on North American Numbering Council Letter Seeking Clarification of the Term "Technology Neutral,"* Public Notice DA 97-2234 (rel. October 20, 1997).

<sup>37</sup> MCI Comments at 10.

<sup>38</sup> *Id.*

the database needed to provide number portability.<sup>39</sup> In this event, it would be inappropriate for wireless carriers alone to bear the costs of database modification.

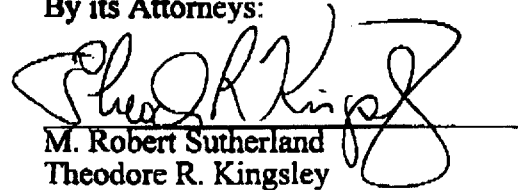
### CONCLUSION

The record clearly indicates that the most important WNP issues facing the industry remain unresolved: (1) development of adequate technical standards to assure that nationwide roaming is preserved in a WNP environment; and (2) whether the disparities created by a rate center based LNP architecture result in competitive disparities. In the meantime, the Commission must relieve wireless carriers from their impending WNP implementation obligations until.

Respectfully submitted,

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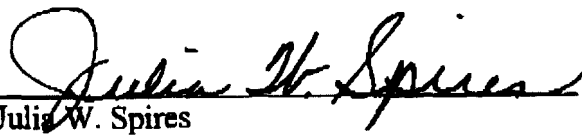
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<sup>39</sup> *Telephone Number Portability*, Third Report and Order, CC Docket No. 95-116 (May 12, 1998) at ¶ 69.

## CERTIFICATE OF SERVICE

I hereby certify that I have this 31st day of August 1998, serviced all parties to this action with the foregoing REPLY, reference docket CC 95-116, NSD File No. L-98-94, by hand service or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties as set forth on the attached service list.

  
Julia W. Spires

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